

**Information requested by the Bills Committee
at its meeting held on 6 February 2001 regarding
the Dangerous Goods (Amendment) Bill 2000**

The information requested by the Bills Committee is set out in the following paragraphs.

Dangerous Goods Ordinance (Cap 295)

(a) New section 5(1)(mb)

2. Section 12(1)(e) of the principal Ordinance empowers the enforcement agents to seize, remove and detain anything with respect to which any offence may have been committed. As regards conveyance of dangerous goods on board a vessel, enforcement by way of seizure of goods may not always be practical. For example, in the case of stowage of dangerous goods not in compliance with the legal requirements, it is more appropriate to allow the persons responsible to rearrange the stowage to rectify the breach and is therefore necessary to detain the vessel until this is done. As regards conveyance of dangerous goods in vehicles, enforcement by way of seizure of goods is usually practical (e.g. in case the persons responsible fail to rectify the breach on the spot). Nevertheless, we consider it necessary to also provide for the power to detain vehicles conveying dangerous goods not in compliance with the legal requirements until the breach is rectified.

3. The original intention of the new section 5(1)(mb) is to enable the making of a provision in the Dangerous Goods (Shipping) Regulations to provide for the power of detention of vessels until a failure to comply with the requirements in the Ordinance has been rectified. Having considered Members' views, we agree that it may be more appropriate to provide for such power in the principal Ordinance and to extend such power to cover detention of vehicles in the same circumstances. The Administration would propose necessary Committee Stage Amendments (CSA).

(b) New section 5(1)(md)

4. The Administration intends to propose the making of regulations to impose a duty on drivers of vehicles carrying dangerous goods not to commence a journey unless certain conditions are fulfilled, and to make non-compliance with such a requirement an offence (cf paragraph 6 below). If such regulations are made, the Department of Justice advises that an employer cannot compel an employee to perform his employment contract in an illegal manner. Hence we do not consider it necessary to specify the “rights” of drivers in these circumstances.

5. We would like to clarify that the original intention of the new section 5(1)(md) is to deal with an emergency situation such as an accident. For instance, drivers of vehicles carrying dangerous goods should be required to inform the Police or the Fire Services Department (FSD) of an accident as soon as possible and to observe the emergency instructions specified in the transport document for the dangerous goods concerned. Apart from drivers, other attendants in the vehicles or involved in the handling of the dangerous goods may also have a part to play to contain the damage caused by an accident. To better reflect our policy intent, we are minded to propose CSA to revise the new section 5(1)(md) to enable regulations be made to provide for the general taking of remedial measures in the event of an emergency.

6. Such drafting would be in line with that in the existing section 5(1)(d) which enables regulations be made to provide for the “control of and the safety precautions which shall be taken in relation to the....movement....of dangerous goods”. In this connection, in our proposed amendment to the subsidiary legislation, we would require the consignors, transport operators, vehicle drivers, etc. to, before commencement of the conveyance journey, perform duties such as the provision of proper transport document and declaration and inspection of the dangerous goods against such document and declaration.

(c) New section 14

7. We have critically reviewed the proposed penalties for contravention of the relevant sections in the Ordinance and consulted the Department of Justice. We are of the view that the revised penalties

proposed in the Bill are appropriate, except those for contravention of sections 7 and 13 of the Ordinance. We would propose the necessary CSA along the following lines.

8. Section 7 outlaws the manufacture, possession, custody and control of prohibited goods (i.e. goods which are extremely dangerous including certain explosives). We consider that the level of penalty (a fine at level 6 (*currently \$100,000*) and imprisonment for 6 months as proposed in the Bill) should be brought in line with that proposed for contravention of section 6 (the manufacture, storage, conveyance or use of dangerous goods without a licence), which is a fine at level 6 and imprisonment for 6 months for a first offence and a fine of \$200,000 and imprisonment for 12 months for a subsequent offence.

9. Section 13 requires the report of any accident by explosion or fire in any licensed premises. We consider it appropriate to increase the fine from level 2 (*currently \$5,000*) as proposed in the Bill to level 3 (*currently \$10,000*) to increase the deterrent effect, but would not propose an imprisonment term. According to the Department of Justice, a penalty involving custodial sentence must be supported by very good justifications. According to FSD, there has been no record of contravention of the provision amounting to a serious consequence in the past. We do not consider a custodial penalty is justified.

10. A breakdown on the number of convictions and the level of fine imposed by court as recorded by FSD from 1999 to 2000 inclusive is shown at Annex A. There is no imprisonment penalty imposed during the period.

(d) New section 19A

11. Having considered members' views, we are minded to propose CSA to amend the new section 19A(2) by substituting "in transit" for "are passing through Hong Kong as part of an international journey". The term "transit" is defined in section 2 of the Ordinance.

(e) General

12. Provisions in the Dangerous Goods Ordinance and Crimes

Ordinance relating to the illegal possession, conveyance and use of explosive or firework are as follows (excerpt at Annex B) -

Dangerous Goods Ordinance

- section 6 – Licence required for the manufacture, etc of dangerous goods (*proposed penalty in the Bill: a fine at level 6 and imprisonment for 6 months for a first offence and a fine of \$200,000 and imprisonment for 12 months for a subsequent offence*)
- section 7 – Prohibited goods (*proposed penalty to be moved in CSA: a fine at level 6 and imprisonment for 6 months for a first offence and a fine of \$200,000 and imprisonment for 12 months for a subsequent offence*)

Dangerous Goods (General) Regulations

- regulation 4 – Removal permits for explosives (*penalty to be proposed in future amendment to subsidiary legislation: a fine at level 6 and imprisonment for 3 months*)
- regulation 59 – Discharge of firework (*penalty to be proposed in future amendment to subsidiary legislation: a fine at level 2*)

Crimes Ordinance

- section 53 – Causing explosion likely to endanger life or property (*existing penalty: life imprisonment*)
- section 54 – Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property (*existing penalty: 20 years' imprisonment*)
- section 55 – Making or possession of explosive (*existing penalty: 14 years' imprisonment*)

13. Should FSD, Civil Engineering Department or Marine Department encounter suspected illegal use, conveyance or possession of explosive or firework, they would refer the case to the Police for

investigation and prosecution as appropriate. The Customs and Excise Department will itself deal with firework cases under the Dangerous Goods Ordinance as appropriate (including prosecution) and refer all other cases to the Police.

14. In deciding which Ordinance or legislative provision is to be applied in any given case, the Police would consider the evidence available and all the circumstances of the case (including the substance involved, the circumstances in which the substance was involved, the intent of the offender, etc). Each case is considered on its own merits. Sometimes, the same act might constitute offences under more than one legislative provisions. Generally, the offence which carries a heavier penalty would be selected if circumstances so warrant. Advice from the Department of Justice would be sought as necessary. (Specifically, as provided for in s55(3) of the Crimes Ordinance, no prosecution under s55(1) may be instituted without the consent of the Secretary for Justice.)

15. Relevant parties have been consulted on the level of penalties of the above offences. We consider that the penalties for offences under sections 53, 54 and 55 of the Crimes Ordinance are appropriate and adequate in terms of deterrent effect. As regards the revised penalties proposed in the Bill, we are satisfied that they are generally appropriate and adequate in terms of deterrent effect, but there are justifiable grounds to further increase the penalty for contravention of section 7 of the Dangerous Goods Ordinance (see paragraph 8 above).

Merchant Shipping (Safety) Ordinance

16. The proposed definition of dangerous goods to be provided for in section 2 follows closely the scope of dangerous goods covered in the International Maritime Dangerous Goods (IMDG) Code. We would propose the same definition in the future amendment to the subsidiary legislation of the Dangerous Goods Ordinance to set out the scope of control of dangerous goods at sea. In respect of part (a) of the proposed definition, “dangerous goods” means substances, materials or articles “that are classified in the IMDG Code as dangerous for carriage by sea”. These refer to substances, materials or articles which are classified as dangerous goods in Chapter 3.2 (cf an excerpt at Annex C as illustration) of the IMDG Code.

17. Part (b) of the proposed definition covers substances, materials or articles “the properties of which would reasonably be considered to be dangerous when carried by sea”. Such a provision is to catch those dangerous goods which have been identified to have dangerous properties but have not yet been classified in the IMDG Code. One example is “water reactive solid, flammable, N.O.S.¹”. In 1997, the US Government submitted a recommendation to the International Maritime Organisation to propose inclusion of “water reactive solid, flammable, N.O.S.” in the list of dangerous goods under the IMDG Code as it was found that such kind of material was being shipped internationally and displayed dangerous properties, producing an irritating, flammable hydrocarbon vapour. The IMDG Code was subsequently amended in 1999 to include such an entry. Part (b) of the proposed definition of dangerous goods would have enabled prompt extension of proper control to this type of material well before it was officially classified in the IMDG Code in 1999 as it had already been identified to be dangerous by some competent authorities.

18. In line with the general provisions in Chapter 1.1 of the IMDG Code (relevant excerpt at Annex D), we have included in the proposed definition of dangerous goods “empty receptacles and residues in tanks or cargo holds which have been used previously for the carriage of dangerous goods, unless such receptacles, tanks or cargo holds have after such use, been cleaned and dried; gas freed or ventilated where appropriate; or where the previous contents were radioactive materials, cleaned and adequately closed”.

19. A soft copy of the IMDG Code has been deposited at the Secretariat.

Security Bureau
March 2001

¹ Not Otherwise Specified.

**Dangerous Goods Ordinance, Cap. 295
(Conviction and fine statistics 1993-2000)**

Section	Particulars	Year	No. of Convictions	Highest Fine (\$)	Lowest Fine(\$)	Average Fine (\$)	Maximum Fine(\$)	Proposed Maximum Fine (\$)
s.6(1)	Over-storage of dangerous goods without valid licence	1993	109	20000	500	4597	25000 + 6 months imprisonment	(i) at level 6 + 6 months imprisonment for first conviction (ii) 200,000 + 12 months imprisonment for subsequent offence
		1994	71	10000	500	4597		
		1995	78	20000	1000	4246		
		1996	160	13000	300	4272		
		1997	155	20000	1000	5340		
		1998	175	22000	400	5072		
		1999	236	24000	300	5208		
		2000	182	25000	200	5170		
s.9B	Breach of licensing conditions	1993	22	4500	1000	2045	10000 + 1 month imprisonment	(i) at level 5 + 1 month imprisonment for first conviction (ii) at level 6 + 3 months imprisonment for subsequent offence
		1994	2	2000	2000	2000		
		1995	-	-	-	-		
		1996	2	10000	5000	7500		
		1997	1	3000	3000	3000		
		1998	8	8000	1500	5062		
		1999	7	9000	1000	2928		
		2000	13	5000	1500	2884		

Section	Particulars	Year	No. of Convictions	Highest Fine (\$)	Lowest Fine(\$)	Average Fine (\$)	Maximum Fine(\$)	Proposed Maximum Fine (\$)
s.10a	Failing to mark dangerous goods giving notice of their character	1993	-	-	-	-	25000 + 6 months imprisonment	at level 6 + 6 months imprisonment
		1994	-	-	-	-		
		1995	-	-	-	-		
		1996	1	22000	22000	22000		
		1997	-	-	-	-		
		1998	-	-	-	-		
		1999	-	-	-	-		
		2000	-	-	-	-		

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Section of Enactment

Chapter:	295	Title:	DANGEROUS GOODS ORDINANCE	Gazette Number:	
Section:	6	Heading:	Licence required for manufacture etc. of dangerous goods	Version Date:	30/06/1997

PART II

CONTROL OF DANGEROUS GOODS

(Added 9 of 1971 s. 6)

(1) Except under and in accordance with a licence granted under this Ordinance, no person shall manufacture, store, convey or use any dangerous goods:
Provided that, except as may be otherwise provided by regulations made under section 5, nothing in this subsection shall be construed to apply to any dangerous goods- (Amended 49 of 1990 s. 38)

- (a) while in the course of transit as cargo in any vessel, aircraft or vehicle; or
- (b) while being loaded into or discharged from any vessel by any person or his servants or agents, licensed for that purpose under this Ordinance; or
- (c) while being loaded onto or discharged from any aircraft or vehicle; or
- (d) in respect of any possession of, or dealing in, such goods by any person which is authorized by a licence under section 27 of the Firearms and Ammunition Ordinance (Cap 238) or to which that Ordinance does not apply by virtue of any provision (except sections 9 and 10) in Part II thereof. (Replaced 68 of 1981 s. 56)

(2) Without prejudice to the other provisions of this Ordinance, this section, and regulations made under section 5 which relate to licences, shall not apply to or in relation to any dangerous goods which are liquefied petroleum gas within the meaning of the Gas Safety Ordinance (Cap 51) except to the extent, if any, specified in regulations made under that Ordinance. (Added 49 of 1990 s. 38)

(Replaced 8 of 1964 s. 4)

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Chapter: 295 Title: DANGEROUS GOODS Gazette
ORDINANCE Number:
Section: 7 Heading: Prohibited goods Version Date: 30/06/1997

No person shall manufacture or cause to be manufactured any prohibited goods or have any prohibited goods in his possession, custody or control or in the possession, custody or control of any servant, agent or warehouse owner.

(Added 8 of 1959 s. 5)

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Chapter:	295B	Title:	DANGEROUS GOODS (GENERAL) REGULATIONS	Gazette Number:	
Regulation:	4	Heading:	Removal permits for explosives	Version Date:	30/06/1997

Conveyance of explosives

No person shall move or cause or permit to be moved any explosives by land or water within Hong Kong except under and in accordance with a removal permit granted by the Authority: (L.N. 88 of 1991)

Provided that nothing in this regulation shall be construed to prevent-

(a) the removal of explosives from a Mode A store situated at a blasting site incidental to blasting at that site; (L.N. 21 of 1971)

(b) the removal by any person from a Mode A or Mode B store of any quantity of explosives if a licence has been granted to that person (or in the case of a corporation to a responsible officer thereof on its behalf) under the Firearms and Ammunition Ordinance (Cap 238) authorizing the removal of those explosives by that person; (68 of 1981 s. 56)

(c) the removal by any person from any place of safety cartridges and cartridges for small arms, not exceeding in each case 1000 rounds in the aggregate-

(i) if a licence has been granted to that person (or in the case of a corporation to a responsible officer thereof on its behalf) under the Firearms and Ammunition Ordinance (Cap 238) authorizing the removal of those cartridges by that person; or

(ii) if that Ordinance, by the operation of Part II thereof, does not apply to the possession of or dealing in those cartridges by that person; or

(d) the removal from any place of such quantity, not exceeding 5000 rounds in the aggregate or 5 kg of explosive content (whichever is the less), of safety cartridges for industrial fastening tools. (L.N. 17 of 1966; L.N. 119 of 1983)

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Chapter: 295B Title: DANGEROUS GOODS Gazette Number:
(GENERAL)
REGULATIONS
Regulation: 59 Heading: **Discharge of firework** Version Date: 30/06/1997

Discharge of firework

- (1) Save as provided in paragraph (3), no person shall discharge or cause to be discharged any firework except under and in accordance with permit granted by the Authority.
- (2) Every such permit shall be granted subject-
- (a) to payment of the appropriate fee prescribed in regulation 183; and
 - (b) to such conditions or restrictions as the Authority may specify in the permit.
- (3) Notwithstanding the provision of paragraph (2), the Authority may in his discretion grant, by notice published in the Gazette and subject to such conditions or restrictions as he may specify in the notice, a general permission for the discharge of fireworks by the public or by any specified class thereof.

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Chapter:	200	Title:	CRIMES ORDINANCE	Gazette Number:
Section:	53	Heading:	Causing explosion likely to endanger life or property	Version Date: 30/06/1997

Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

(23 of 1913 s. 3 incorporated. Amended 5 of 1924 Schedule)
[cf. 1883 c. 3 s. 2 U.K.]

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Chapter: 200 Title: CRIMES ORDINANCE Gazette Number:
Section: 54 Heading: **Attempt to cause explosion, or
making or keeping explosive
with intent to endanger life or
property** Version Date: 30/06/1997

Any person who unlawfully and maliciously-

(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property; or
(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property,
shall whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 20 years, and the explosive substance shall be forfeited.

(23 of 1913 s. 4 incorporated)
[cf. 1883 c. 3 s. 3 U.K.]

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Chapter:	200	Title:	CRIMES ORDINANCE	Gazette Number:	L.N. 362 of 1997
Section:	55	Heading:	Making or possession of explosive	Version Date:	01/07/1997

(1) Any person who makes an explosive substance or, whether or not he knows it to be an explosive substance, knowingly has in his possession or custody or under his control anything which is an explosive substance shall, unless he can show that he made it or has it in his possession or custody or under his control for a lawful object, be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 14 years, and the explosive substance shall be forfeited.

(2) Where in any prosecution for an offence under subsection (1) it is proved that the accused knowingly had in his possession or custody or under his control anything whatsoever, other than premises, containing any explosive substance, then, unless the accused can show that he had reasonable grounds for believing that the thing did not contain anything or contained only something other than an explosive substance, he shall be presumed knowingly to have had in his possession or custody or under his control the explosive substance contained in that thing.

(3) No prosecution for an offence under subsection (1) shall be instituted without the consent of the Secretary for Justice. (Amended L.N. 362 of 1997)

(23 of 1913 s. 5 incorporated. Replaced 1 of 1966 s. 2)

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UN No.	Proper Shipping Name (PSN)	Class or division	Subsidiary risk(s)	Packing group	Special provisions	Limited quantities	Packing instructions	Provisions	Instructions	IBC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
2771	THIOCARBAMATE PESTICIDE, SOLID, TOXIC	6.1	*	III	61 274	500 g	P002	-	IBC08	B2 B3
2772	THIOCARBAMATE PESTICIDE, SOLID, TOXIC	6.1	*	III	61 223 274 944	3 kg	P002 LP02	-	IBC08	B1
2773	THIOCARBAMATE PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	I	274	None	P001	-	-	-
2774	THIOCARBAMATE PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	II	274 944	1 l	P001	-	IBC02	-
2775	ZINC-BASED PESTICIDE, SOLID, TOXIC	6.1	*	I	61 274	None	P032	-	IBC07	B1
2776	ZINC-BASED PESTICIDE, SOLID, TOXIC	6.1	*	II	61 274	500 g	P002	-	IBC08	B2 B3
2777	ZINC-BASED PESTICIDE, SOLID, TOXIC	6.1	*	III	61 223 274 944	3 kg	P002 LP02	-	IBC08	B3
2778	ZINC-BASED PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	I	274	None	P001	-	-	-
2779	ZINC-BASED PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	II	274 944	1 l	P001	-	IBC02	-
2779	MERCURY-BASED PESTICIDE, SOLID, TOXIC	6.1	PP	I	61 274	None	P002	-	IBC07	B1
2779	MERCURY-BASED PESTICIDE, SOLID, TOXIC	6.1	PP	II	61 274	500 g	P002	-	IBC08	B2 B3
2779	MERCURY-BASED PESTICIDE, SOLID, TOXIC	6.1	PP	III	61 223 274	3 kg	P002 LP02	-	IBC08	B3
2778	MERCURY-BASED PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	I	274	None	P001	-	-	-
2778	MERCURY-BASED PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	II	274	500 ml	P001	-	IBC02	-
2779	SUBSTITUTED NITROPHENOL PESTICIDE, SOLID, TOXIC	6.1	*	I	61 274	None	P002	-	IBC07	B1
2779	SUBSTITUTED NITROPHENOL PESTICIDE, SOLID, TOXIC	6.1	*	II	61 274	500 g	P002	-	IBC08	B2 B3
2779	SUBSTITUTED NITROPHENOL PESTICIDE, SOLID, TOXIC	6.1	*	III	61 223 274 944	3 kg	P002 LP02	-	IBC08	B3
2780	SUBSTITUTED NITROPHENOL PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	I	274	None	P001	-	-	-
2780	SUBSTITUTED NITROPHENOL PESTICIDE, LIQUID, FLAMMABLE, TOXIC flashpoint less than 23 C c.c.	3	6.1	II	274 944	1 l	P001	-	IBC02	-
2781	DIARYLIDUM PESTICIDE, SOLID, TOXIC	6.1	*	I	61 274	None	P002	-	IBC07	B1

IMO	UN	Provisions	EmS	Storage and segregation	Properties and observations	UN No.
(12)	(13)	(14)	(15)	(16)	(17)	(18)
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2774
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2771
-	T14	TP2 TP9 TP12 TP27	3-03	Category B. Clear of living quarters.	Pesticides frequently contain petroleum or coal tar distillates, or other flammable liquids. Miscibility with water depends upon the composition. Toxic if swallowed, by skin contact or by inhalation.	2772
-	T11	TP2 TP13 TP27	3-03	Category B. Clear of living quarters.	See entry above.	2773
-	-	-	6.1-04	Category A. Clear of living quarters.	Solid pesticides present a very wide range of toxic hazard. Toxic if swallowed, by skin contact or by inhalation.	2775
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2776
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2778
-	T14	TP2 TP9 TP13 TP27	3-03	Category B. Clear of living quarters.	Pesticides frequently contain petroleum or coal tar distillates, or other flammable liquids. Miscibility with water depends upon the composition. Toxic if swallowed, by skin contact or by inhalation.	2778
-	T11	TP2 TP13 TP27	3-03	Category B. Clear of living quarters.	See entry above.	2776
-	-	-	6.1-04	Category A. Clear of living quarters.	Solid pesticides present a very wide range of toxic hazard. Toxic if swallowed, by skin contact or by inhalation.	2777
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2779
-	-	-	6.1-04	Category A. Clear of living quarters.	See entry above.	2777
-	T14	TP2 TP9 TP13 TP27	3-03	Category B. Clear of living quarters.	Pesticides frequently contain petroleum or coal tar distillates, or other flammable liquids. Miscibility with water depends upon the composition. Toxic if swallowed, by skin contact or by inhalation.	2778
-	T11	TP2 TP13 TP27	3-03	Category B. Clear of living quarters.	See entry above.	2776
-	-	-	6.1-03	Category A. Clear of living quarters.	Solid pesticides present a very wide range of toxic hazard. Toxic if swallowed, by skin contact or by inhalation.	2779
-	-	-	6.1-03	See above.	See entry above.	2779
-	-	-	6.1-03	See above.	See entry above.	2775
-	T14	TP2 TP9 TP13 TP27	3-03	Category B. Clear of living quarters.	Pesticides frequently contain petroleum or coal tar distillates, or other flammable liquids. Miscibility with water depends upon the composition. Toxic if swallowed, by skin contact or by inhalation.	2780
-	T11	TP2 TP13 TP27	3-03	Category B. Clear of living quarters.	See entry above.	2780
-	-	-	6.1-04	Category A. Clear of living quarters.	Solid pesticides present a very wide range of toxic hazard. Toxic if swallowed, by skin contact or by inhalation.	2781

- 2 of such a character that any interior surface with which the contents may come into contact is not dangerously affected by the substance being conveyed; and
 - 3 capable of withstanding the ordinary risks of handling and transport by sea.
- 2 Where the use of absorbent or cushioning material is customary in the packaging of liquids in receptacles, that material shall be:
- .1 capable of minimizing the dangers to which the liquid may give rise;
 - .2 so disposed as to prevent movement and ensure that the receptacle remains surrounded; and
 - .3 where reasonably possible, of sufficient quantity to absorb the liquid in the event of breakage of the receptacle.
- 3 Receptacles containing dangerous liquids shall have an ullage at the filling temperature sufficient to allow for the highest temperature during the course of normal transport.
- 4 Cylinders or receptacles for gases under pressure shall be adequately constructed, tested, maintained and correctly filled.
- 5 Empty uncleaned receptacles which have been used previously for the transport of dangerous goods shall be subject to the provisions of this part for filled receptacles, unless adequate measures have been taken to nullify any hazard.

Regulation 4

Marking, labelling and placarding

- 1 Packages containing dangerous goods shall be durably marked with the correct technical name; trade names alone shall not be used.
- 2 Packages containing dangerous goods shall be provided with distinctive labels or stencils of the labels, or placards, as appropriate, so as to make clear the dangerous properties of the goods contained therein.
- 3 The method of marking the correct technical name and of affixing labels or applying stencils of labels, or of affixing placards on packages containing dangerous goods, shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking, labelling and placarding methods, account shall be taken of the durability of the materials used and of the surface of the package.
- 4 Packages containing dangerous goods shall be so marked and labelled except that:
- .1 packages containing dangerous goods of a low degree of hazard or packed in limited quantities; or
 - .2 when special circumstances permit, packages that are stowed and handled in units that are identified by labels or placards*
- may be exempted from labelling requirements.

Regulation 5

Documents[†]

- 1 In all documents relating to the transport of dangerous goods by sea where the goods are named, the correct technical name of the goods shall be used (trade names alone shall not be used) and the correct description given in accordance with the classification set out in regulation 2.
- 2 The shipping documents prepared by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for transport is properly packaged and marked, labelled or placarded, as appropriate, and in proper condition for transport.
- 3 The persons responsible for the packing of dangerous goods in a freight container or road vehicle shall provide a signed container packing certificate or vehicle packing declaration stating that the cargo in the unit has been properly packed and secured and that all applicable transport requirements have

* Refer to the specific exemptions provided for in the International Maritime Dangerous Goods (IMDG) Code.

† Reference to *documents* in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.